

I. PRELIMINARY REMARKS

Claims 1-35 and 42-97 are pending in the application. All of these claims stand rejected.

Independent claims 1, 33 and 42 are amended herein in response to the outstanding rejections.

II. APPLICANTS' INVENTION

The present invention relates to a porous polytetrafluoroethylene tube that circumferentially distends from an initial circumference upon the application of a circumferentially distending force such as applied by an internal pressure, and which exhibits minimal recoil following the removal of the circumferentially distending force. The porous polytetrafluoroethylene tube preferably has a second circumference larger than the initial circumference (the second circumference achieved by circumferential distension by force) which remains substantially unchanged by further increasing force. The porous polytetrafluoroethylene tube itself provides the circumferential distensibility up to the limit, without need of additional plastically deformable components such as metal stents. It is useful as a liner for pipes and vessels, particularly those having irregular luminal surfaces to which the polymeric tube can smoothly conform. The tube is particularly useful as a liner for both living and prosthetic blood vessels. The limiting second circumference is of particular value for applications of this type in that it can be used to prevent further undesirable dilatation of the blood vessel into which it is fitted.

**III. REJECTION OF CLAIMS 1 AND 33 UNDER 35 USC 102(b) AS BEING
ANTICIPATED BY ISAAC, US 3,081,773.**

Isaac does not teach or suggest the tube of porous PTFE as described by claims 1 and 33, as amended herein.

**IV. REJECTION OF CLAIMS 1 AND 33 UNDER 35 USC 102(b) AS BEING
ANTICIPATED BY FOGARTY, US 3,435,826.**

Fogarty does not teach or suggest the tube of porous PTFE as described by claims 1 and 33, as amended herein.

IV. REJECTION OF CLAIMS 1-5, 24-30, 33-35, 42-49, 51-55, 57-61, 63-67 and 69-97 UNDER 35 USC 102(b) AS BEING ANTICIPATED BY LEE, US 5,123,917.

Lee describes an expandable intraluminal graft in the form of an expandable polymeric tubular graft in combination with a metallic stent. The Examiner points out that the expansion limit of the graft layer is reached due to the expansion of the stent which will permit only a predetermined expansion due to the stent configuration and structure. The claims as amended specify that the porous PTFE tube itself provides the ability to limit the circumference, i.e., *the porous PTFE tube does NOT rely on a stent or any other added component to provide the tube with an expansion limit, but rather the tube itself is provides that limit.* The claim language and the teachings of the specification make this difference quite clear. Neither Lee nor any of the other cited art provides such a tube or makes any suggestion of how to provide such a tube.

V. REJECTION OF CLAIMS 1, 2, 5, 24-30, 33-35, 42-48, 51-54, 58-60, 63-66, 69, 70, 72, 74, 76, 78, 80, 82, 84 AND 86-97 UNDER 35 USC 102(b) AS BEING ANTICIPATED BY RHODES, US 5,122,154.

Rhodes describes a stent and tube combination that is very similar to the stent and tube combination taught by Lee. Rhodes also requires a stent to provide a limit to circumferential distension. For the same reasons described above in Paragraph IV with regard to Lee, the amended claims are not anticipated by Rhodes.

VI. REJECTION OF CLAIMS 6-16, 18, 19 and 21-23 UNDER 35 USC 103(a) AS BEING UNPATENTABLE OVER LEE ('917) IN VIEW OF EILENTROPP, US 4,791,966.

Lee is described above. Eilentropp teaches a tube of non-porous PTFE formed by a helically-wrapped layer of non-porous PTFE tape. The tape has a trapezoidal cross section, thicker at the center of the tape than at the edges which allows for the tape edges to overlap during wrapping and still result in a tube of relatively uniform wall thickness. The Examiner states that it would have been obvious to have formed the outer layer of Lee with the helically wrapped tape per Eilentropp because the helically layered tube would have been merely an alternate and analogous method of forming another layer on the Lee device.

The present invention differs from Lee as noted above in that it does not require a stent to limit the circumferential distension. As noted above, Lee neither teaches or suggests the present invention according to the amended claims. The addition of Eilentropp renders the present claims even less obvious.

The background of the present specification at page 2, lines 29-31 briefly describes GORE-TEX Vascular Grafts which are ePTFE tubes having an exterior layer of ePTFE helically-applied tape. These commercially available vascular grafts (several million implanted to date) represent the physical embodiment of the combination of Lee and Eilertropp except that they do not include the stent components of Lee. The purpose of the helical wrapping on these grafts is specifically to prevent circumferential dilation of the tube. Eilertropp makes absolutely no suggestion that a helically wrapped tube might provide any circumferential distensibility. There is no suggestion in the combination of Lee and Eilertropp as to how a distensible, helically-wrapped graft might be achieved. Further, there is no suggestion to combine these references.

Simply adding the wrap of Eilertropp to the graft component of Lee would result in a dilation-resistant graft analogous to the commercial GORE-TEX Vascular Graft; indeed, the graft of Lee would be rendered non-distensible (and therefore non-functional) by adding the helical wrap of Eilertropp. The specification at Figure 4, page 11, lines 10-16 and page 11, line 33 to page 13, line 8 describes how the inventive porous polymeric tube of the present invention is made and how it differs from the commercial GORE-TEX Vascular Graft. There are significant steps included in the process flow chart of Figure 4 that result in the tube of the present invention, steps that are not required to make a non-distensible helically reinforced tube such as would result from the simple combination of Lee and Eilertropp. The prior use of helical wrapping such as represented by the GORE-TEX Vascular Graft and Eilertropp clearly teaches away from distensibility. The present distensible graft incorporating a helical wrap is non-obvious over the combination of Lee and Eilertropp.

VII. REJECTION OF CLAIMS 17 AND 18 UNDER 35 USC 103(a) AS BEING UNPATENTABLE OVER LEE ('917) IN VIEW OF EILENTROPP ('966) AS APPLIED TO CLAIM 14 ABOVE, AND FURTHER IN VIEW OF SUMMERS, US 5,607,445.

Lee and Eilertropp are described above; Eilertropp simply adds the use of a helical wrap to construct a tubular form. As noted by the Examiner, Summers teaches that a stent may be either straight (with two ends) or branched (with three ends). He further concludes that it would have been obvious to have formed the modified Lee stent/graf in a branched form, and that the branched form might also include tapers.

Applicants acknowledge the prior existence of both tapered and branched grafts. The cited combination of references including Summers does not, however, teach or suggest in any way how the porous polymeric tube of the present invention might be provided with a

circumferentially distensible form resistant to recoil or with a limiting second circumference, regardless of whether embodied in straight, branched or tapered form. Thus, for the reasons already described above, these claims (as amended) are not obvious over the cited references.

VIII. REJECTION OF CLAIMS 31 AND 32 UNDER 35 USC 103(a) AS BEING UNPATENTABLE OVER LEE ('917) IN VIEW OF SUMMERS ('445).

This rejection is analogous to the previous rejection described in Paragraph VII above, except that it does not include the helical wrap of Eilentrapp. The presence or lack of the helical wrap does not affect the reasons for patentability of these claims; the amended claims are not obvious over this combination for the same reasons described in Paragraph VI above.

VIII. REJECTION OF CLAIMS 20, 50, 56, 62 AND 68 UNDER 35 USC 103(A) AS BEING UNPATENTABLE OVER LEE ('917) ALONE OR LEE IN VIEW OF EILENTROPP ('966).

The references are described above. The claims in question pertain to the securing of the tube to blood vessels by the use of sutures. Applicants acknowledge the substantial prior use of sutures for securing grafts to blood vessels; however, in the claimed combination there is no suggestion to suture grafts of the type described by claim 1 (amended). Further, as these claims all depend from other claims whose patentability is described above, they are patentable on the same basis as those independent claims. Consequently these dependent claims are also non-obvious and patentable.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "Version with markings to show changes made."

The applicants believe that their claims are in good and proper form and are patentable over the cited art. As such, the applicants respectfully request reconsideration, allowance of the claims and passage of the case to issuance.

Respectfully submitted,



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Date: 24 May 2001

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

Amend claim 1 as follows:

Claim 1. (three-times amended):

1. An article comprising a porous polytetrafluoroethylene[polymeric] tube having a circumference wherein the circumference of said porous polytetrafluoroethylene[polymeric] tube increases in response to the application of internal pressure up to a second circumference, thereafter the [polymeric] tube itself limits further growth in the circumference so as to remain substantially unchanged with further increasing internal pressure.

Claim 33. (three-times amended):

33. An article comprising a porous polytetrafluoroethylene[polymeric] tube having a first circumference at a first internal pressure of atmospheric pressure, a second circumference at a second internal pressure of greater than atmospheric pressure, said second circumference being greater than the first circumference, wherein upon applying an internal pressure greater than the second internal pressure, the porous polytetrafluoroethylene[polymeric] tube itself limits further growth to substantially the second circumference.

Claim 42. (three-times amended):

42. An article comprising a porous polytetrafluoroethylene[polymeric] tube having a circumference wherein the circumference of said porous polytetrafluoroethylene[polymeric] tube increases in response to the application of a circumferentially distending force, wherein the porous polytetrafluoroethylene[polymeric] tube itself limits recoil to 14 percent or less following removal of the circumferentially distending force.